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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,599	01/10/2001	John G. Goddard	4147-10-PUS	1790
22442	7590	11/26/2003	EXAMINER	
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			LUKTON, DAVID	
			ART UNIT	PAPER NUMBER
			1653	

DATE MAILED: 11/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/646,599

Applicant(s)

GODDARD ET AL.

Examiner

David Lukton

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-38 and 43-57 is/are pending in the application.
- 4a) Of the above claim(s) 6,8,9,28,29,34,35,37,49,51,52,54,56 and 57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Pursuant to the directives of the amendment filed 10/27/03, claims 5-9, 28, 29, 34, 35, 37, 49, 51, 52, 54, 56, 57 have been amended, and claims 1-4, 39-42 cancelled. Claims 5-38 and 43-57 remain pending. Claims 6, 8, 9, 28, 29, 34, 35, 37, 49, 51, 52, 54, 56, 57 remain withdrawn from consideration. In the event that claim 5 is determined to be allowable, those claims that clearly require the limitations of claim 5 will be rejoined therewith.

Claims 5 and 7 are examined in this Office action.

Applicants' arguments filed 10/27/03 have been considered and found persuasive.

✱

The following is a quotation of the appropriate paragraphs of 35 U.S.C §102 that form the basis for the rejections under this section made in this action.

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 5 is rejected under 35 U.S.C. §102(b) as being anticipated by Cherbuliez (*Helv Chimica Acta* 41, 1163-68, 1958).

Cherbuliez discloses (table 3, p. 1167) compound 7. This compound is encompassed by claim 5 when the substituent variables correspond as follows:

W = -OH
R = -CH₂-CH₃
X = -O-
X = =O
Z = hydrogen
Y = -O-

Thus, the claim is anticipated.

✱

Claim 5 is rejected under 35 U.S.C. §102(b) as being anticipated by Black (J. Biol. Chem. 221, 171-180, 1956).

Black discloses a compound in each of reactions 1 and 2 which is encompassed by claim 5 when the substituent variables correspond as follows:

W = -OH
R = -CH₃
X = =O
X = -S-
Z = OH
Y = -O-

Thus, the claim is anticipated.

✱

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lukton whose telephone number is 703-308-3213. The examiner can normally be reached Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low, can be reached at (703) 308-2923. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

D. Lukton 11/20/03

Christopher S. F. Low
CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
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